

REMARKS

Claims 1 to 28 are pending in the case. The Applicants strongly believe that full consideration of the below Remarks will unequivocally demonstrate the novelty and non-obviousness of the present invention. Indeed, the Applicants wish to circumvent intervention of the Board in achieving allowance of the claimed subject matter. Accordingly, timely and favorable consideration of the below comments is respectfully requested.

Rejection under 35 USC § 103(a) over Wisotzki

The Examiner has rejected Claims 1 to 12 and 14 to 27 under 35 USC § 103(a) as allegedly obvious over US Patent Number 4,900,545 to Wisotzki et al (hereinafter "Wisotzki"). The Examiner's rejection is respectfully traversed.

The Applicants have argued on two prior occasions that Wisotzki fails to teach each and every component of the claimed invention. Moreover, the Applicants' legal counsel contacted the Examiner via telephone on 28 March 2003 to inform the Examiner of the Applicants' intention to submit the present response and to summarize the nature of the present Remarks. For background, the Applicants previously argued that Wisotzki fails to teach the specific polymer of the claimed invention, as well as the claimed water vapor transfer rate and glass transition temperature limitations associated therewith. The Applicants have further attempted to convey to the Examiner that the reference of Wisotzki relates to an entirely different art area (namely, human hair), and thus, is too far removed from the present invention to render it obvious. Nevertheless, the Examiner has taken the position that Wisotzki teaches vinyl polymers meeting the Applicants' limitations regarding water-vapor transfer and glass transition temperatures. Moreover, the Examiner has further asserted that the claimed use of a composition possesses no patentable weight.

The Applicants, in a final effort to distinguish the claimed invention from the reference of Wisotzki and avoid intervention of the Board, wish to note and underscore to the Examiner that, in addition to the above arguments, Wisotzki neither teaches nor suggests each and every element of both the first and second components of the claimed invention, as claimed in claims 1 to 28. Indeed, claim 1 of the present application relates to a system for controlling plant and flower moisture transpiration, comprising two, distinct components. The first component of the present system relates to a solution for application onto a surface of a plant or flower, comprising a polymer with a specific water vapor transfer rate and glass transition temperature. It should be again noted and underscored that the first component of the claimed system is applied to the

surface of a plant or flower in the form of a microemulsion, prior to any use of the second component of the claimed system.

Moreover, the system of claim 1 further discloses a second component, which is dissolved in water to form a solution. The subject plant or flower to be preserved is then placed in this solution, after the first component is applied to a surface of the subject plant or flower in the form of a microemulsion. In light of this discussion, the Applicants again wish to note and underscore to the Examiner that Wisotzki clearly fails to teach or suggest the claimed system – the separate components of which are conveyed to the subject plant or flower at different times and in differing forms. To reiterate, the first component of the claimed system is applied in the form of a microemulsion onto the surface of the plant or flower to be preserved, while the second component of the claimed system is dissolved in water to form a solution in which the subject plant or flower is placed – again, subsequent to application of the first component.

It is the Applicants' position that the Examiner has yet to identify a single reference that discloses both the first and second components of the claimed system, applied in the form and order disclosed in the present claims. Assuming for purposes of argument only, that Wisotzki teaches a composition comprising water, alcohol, disaccharide, polymer and a benzyl quaternary ammonium compound, it is clear that the reference intends to incorporate such ingredients into a single composition. The reference provides no guidance from which a person of ordinary skill in the art could extrapolate that the subject ingredients could or should be divided into two, distinct compositions and conveyed to an entirely different substrate (namely, plants and flowers) using two completely distinct modes of delivery (the first being a microemulsion, the second being a solution). Thus, the Applicants submit that Wisotzki neither teaches nor suggests each and every limitation of the claimed invention. Accordingly, reconsideration and withdrawal of the rejection to claims 1 to 12 and 14 to 27 under 35 USC § 103(a) are respectfully requested.

CONCLUSION

Attached hereto at the conclusion of this communication is a separate sheet entitled "Version With Markings To Indicate Changes Made." Applicants have made an earnest effort to place the present claims in condition for allowance. WHEREFORE, entry of the amendments provided herewith, reconsideration of the claims as amended in light of the Remarks provided, withdrawal of the claims rejections, and allowance of Claims 1-28, as amended, are respectfully requested. In the event that issues remain prior to allowance of the noted claims, then the Examiner is invited to call Applicants' undersigned attorney to discuss any remaining issues.

Respectfully submitted,

STEVEN DARYL SMITH, et al.

By

  
Frank Taffy, Esq.  
Attorney for Applicants  
Registration No. 52,270  
(513) 634-9315

Customer No. 27752

28 March 2003  
Cincinnati, Ohio  
7917-PrelimAmend+RCE.doc